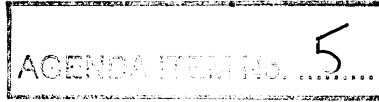


**The
Scottish
Licensed
Trade
Association**

Patron: THE RT. HON. THE LORD MACFARLANE OF BEARSDEN KT



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Established 1880

VAT Reg. No. 271 6858 30

SLTA CHAIRMANSHIP

16th November 2007.



Clerk to the Licensing Board,
Ayrshire (East),
Council H. Q.,
London Road Centre,
Kilmarnock,
KA3 7BU.

Dear Sir/Madam,

With reference to the Licensing (Scotland) Act 2005, and subsequent regulations and statutory instruments, The Scottish Licensed Trade Association has been extremely concerned and somewhat angered that premises, currently referred to as Registered Clubs, will be exempt from having a Premises Manager and will not be required to have a Personal Licence Holder on the premises, unless they remain open after 1.00 a.m.

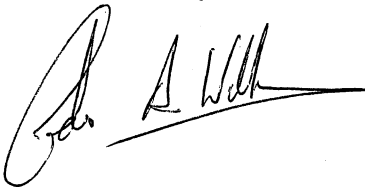
Our concerns were made known to the then Scottish Executive, however, our views were obviously ignored. The SLTA remains deeply concerned that the exemptions granted to "members clubs", as they will be known, will in effect, be detrimental to ensuring compliance with the 5 Licensing Objectives, in particular "securing public safety" and "protection of children from harm". Adding to our concerns is the fact that "members clubs" will be able to apply to open their doors to the general public for up to 56 days of the year through occasional extensions. The capacity of some of the larger Registered Clubs in Scotland, is actually similar to many large night clubs and pubs. It is our opinion this is an utterly ridiculous situation caused by, the then, Scottish Executive and one that must be addressed to ensure not only a level playing field is achieved, but mainly to ensure the responsibility of achieving the 5 Licensing Objectives is shared equally amongst those dispensing alcohol.

The SLTA would, with respect, strongly suggest that Licensing Boards should review how they will achieve the 5 Licensing Objectives when dealing with such premises, considering the exemptions that have been granted to Registered Clubs. The Association would also respectfully suggest Licensing Boards consider the option of applying additional conditions when considering the granting of a licence to "members clubs" to resolve this appalling situation borne from the short-sightedness of the then Scottish Executive. It is also felt that when an occasional licence is sought that it must be accompanied by a statement by the Premises Manager. This obviously would not just apply to Clubs, but also to applications by individuals or other organisations.

As previously mentioned this Association has other concerns regarding Registered Clubs. For example, what will be the situation regarding their AWP machines when their doors are open to the general public, as clubs are permitted a higher jackpot for the "members"? Will they be required to switch their AWP machines off on these occasions? What will be the implications in respect of their rates, as for up to 56 days per year, they are operating on a commercial basis in the same manner as pubs? The Association will be taking these issues up with other relevant authorities.

We certainly look forward to hearing your views on this matter as we have now been led to believe that this situation is to be left in the hands of Licensing Boards. Should you wish to discuss this further, please feel free to contact our offices.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Colin A. Wilkinson', with a long horizontal flourish extending to the right.

Colin A. Wilkinson
SLTA Secretary.

GUIDANCE FOR CLUBS

Background

The Licensing (Scotland) Act 2005 means clubs that have traditionally been registered with the Sheriff for the sale of alcohol (under Part VII) of the 1976 Act) will now come under the remit of the Licensing Board. All Clubs will require a premises licence under the new Act if they wish to sell alcohol after the 1 September 2009, and can apply in the name of the Club itself or the committee.

Clubs are defined in the Licensing (Clubs) (Scotland) Regulations 2007 (SI 76 of 2007) as those that:-

- Must not be conducted for the purposes of making a profit, and
- Must have written constitution and rules which make provision that:-
 - (a) the business of the club is to be under the management of a committee or other governing body elected by members of the club
 - (b) no person under 18 is to be admitted as a member of the club (unless the club is devoted primarily to some sporting purpose or is a students' union)
 - (c) No member of the committee or other governing body and no person employed by the club is to have any personal interest in the sale of alcohol on the club premises or in the profits arising from such sale
 - (d) other than when an occasional licence has effect, no person is to be supplied with alcohol on the club premises unless that person is:-
 - (i) A member of the club; or
 - (ii) A person who is on the premises at the invitation of a member of the club and is accompanied by that member; or
 - (iii) A member of another club
 - (e) Where a person referred to in sub paragraph (d)(ii) is supplied with alcohol on club premises when an occasional licence is not in effect, there is to be entered in a book kept for the purpose:-
 - (i) the date in question
 - (ii) the name and address of the person, and
 - (iii) the name of the member accompanying the person
 - (f) Correct accounts and books are to be kept showing the financial affairs and intromissions of the club.
 - (g) The Club is to have at least 25 members to be properly constituted.
 - (h) No person is to be allowed honorary or temporary membership of the club or to be relieved of the payment of the regular entrance fee or subscription:-
 - (i) except to allow temporary participation in the activity which is the prime purpose of the club and,
 - (ii) except in accordance with specific provision set out in the club rules.

Please note that as a qualifying club must have proper constitution to comply with the Regulations East Ayrshire Licensing Board will be looking to clubs to provide a copy of their constitution with their application.

Exemptions

Section 125 of the Licensing (Scotland) Act 2005 provides for exemption from parts of the Act for clubs that fall within the description above. Qualifying clubs are exempted from:-

- Overprovision Assessment
- Requirement for premises manager
- Requirement for sales of alcohol to be authorised by a personal licence holder

These exemptions mean that qualifying clubs will not generally need a personal licence holder or a premises manager. The exception is where they open past 01.00am in which case they may become subject to specific mandatory conditions that include the presence of a personal licence holder.

Training

The Premises Licence mandatory conditions contained in Schedule 3 to the Act provide at paragraph 6 for the training of **all** staff selling or serving alcohol. There is no exemption for clubs from this provision and clubs cannot use untrained staff.

Where a person undertakes the role of selling or serving alcohol then that person must be trained to the standard prescribed in the Licensing (Training of Staff) (Scotland) Regulations 2007. That standard is at least 2 hours worth of relevant training from a person who holds a personal licence or who is accredited by the SQA.

Clubs may therefore choose to have one (or more) personal licence holder(s), even though there is no requirement for the same, as the personal licence holder can then train other staff internally. Each club must make its own decision on this and club representatives should discuss training with accredited training providers.

Occasional Licences

Qualifying clubs may apply for occasional licences in respect of their premises and a Licensing Board may issue, in any period of 12 months:-

- (a) not more than 4 occasional licences each having effect for a period of 4 days or more, and
- (b) not more than 12 occasional licences each having effect for a period of less than 4 days

Provided that, in any period of 12 months, the total number of days on which occasional licences issued in respect of the premises does not exceed 56.

Therefore, up to 56 days a year can be covered by occasional licences where the club will be able to admit and sell or serve alcohol to members of the general public, as well as members and guests.

For any period during which an occasional licence has effect in respect of those premises, the conditions of any premises licence issued in respect of the premises are not to have effect.

Transition to the Licensing (Scotland) Act 2005 starts on 1 February 2008 and from that date applicants can start applying for their new premises licences.

The Licensing (Scotland) Act 2005 comes fully into force on 1 September 2009 and new licences will not take effect until that date.

From 1 February 2008 to the 1 September 2009 existing permissions (i.e. registrations and any regular extensions) will automatically continue to have effect and need not be renewed. However, between the above two dates all clubs will be required to apply for a new form of premises licence, this being irrespective of when their current registration with the Sheriff's Office is due to expire.

East Ayrshire Licensing Board will set the date by which applications need to be made and will be sending letters to each club individually to notify of the appropriate lodgement date.